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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,423	10/18/2001	Darl Dufendach	65899-0129/DP-305300	6671

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EXAMINER

JOHNSON, VICKY A

ART UNIT PAPER NUMBER

3682

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,423

Applicant(s)

DUFENDACH, DARL

Examiner

Vicky A. Johnson

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirogane (JP-3-246114).

Shirogane discloses Re claim 10, an actuation lever for operating a vehicle climate control unit, said actuation lever comprising: a knob (3) that includes a pocket (25) having at least one inner peripheral surface (24); a lever (1) having a first end for engaging and supporting said knob (see Fig 3), said first end having a resiliently deflectable retaining member (24) that engages at least one inner peripheral surface of said knob pocket to retain said knob on said lever (see Fig 1), and the retaining member includes a sharply pointed tip which is embed into an inner peripheral surface of the knob pocket (see Fig 1).

Shirogane discloses the claimed invention except for the lever being a material that is relatively harder than the knob and that the lever is a metal and the knob is a polymeric material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the lever out of a metal material that is harder than the knob made of polymeric material, since it has been held to be within the general skill of

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a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Re claim 11, wherein said retaining member is integrally formed with said lever (see Fig 1).

Re claim 12, wherein said retaining member exhibits a substantially arched profile defining a first half that extends upward from said lever (see Fig 3) and a second half comprising a deflectable tine that extends downwardly from said first end (see Fig 3).

Re claim 13, wherein said tine deflects inwardly towards said longitudinal axis upon installation of said knob (see Fig 1).

Re claim 14, wherein a spring force generated by said deflected tine causes said retaining member to exert oppositely directed forces against at least one inner peripheral surface (inherent).

Re claims 18 and 19, Shirogane discloses the claimed invention except for the force to apply said knob onto said lever does not exceed approximately 50 N and the force to remove said knob from said lever is at least approximately 20 N.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to discover the optimum force to apply the knob to the lever and remove the knob from the lever, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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Re claim 20, an actuation lever for operating a vehicle climate control unit, said actuation lever comprising: a knob (3) that includes a pocket (25) having at least one inner peripheral surface (24); a lever (1) having a first end (see Fig 3) for engaging and supporting said knob (see Fig 3), a second end (see Fig 3) configured for connection to the climate control unit (Abstract) and a longitudinal axis (see Fig 3), said first end having a resiliently deflectable retaining member (13) that engages at least one inner peripheral surface of said knob pocket (24) to retain said knob on said lever (see Fig 1); and wherein said retaining member exhibits a substantially arched profile defining a first half that extends upward from said lever and a second half comprising a deflectable tine (13) that extends downwardly from said first end to a tip (see Fig 1), said tine deflecting inwardly towards said longitudinal axis upon installation of said knob (see Fig 1), and said tip imbedding into an inner peripheral surface of said knob pocket upon installation of said knob (see Fig 1).

Response to Arguments

Some further comments regarding the applicant's remarks are deemed appropriate.

The applicant argues that the Shirogane reference fails to disclose a sharply pointed tip embedded into an inner peripheral surface of the knob. Figure 1 of the Shirogane reference shows the tip of the lever embedded in the inner peripheral surface of the knob. Webster's Dictionary Tenth Edition defines 'embed' as "to enclose closely in, or to surround closely", therefore the Shirogane reference meets the limitation of the claim.

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The applicant's remarks have been given due consideration, however, they are not deemed fully persuasive.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Thursday (7:00a-5:00p).

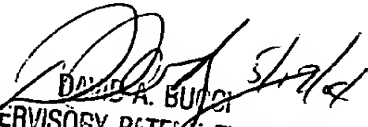
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vaj

5/17/09


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